IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revn. No.17 of 2007

DATE OF DECISION:11.1.2007

Gurcharan Singh .....Petitioner

Versus

State of Punjab .....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri H.R. Nohria, Advocate
for the petitioner.

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The complainant has filed this revision petition against the order dated 26.9.2006 passed by Additional Sessions Judge, Barnala, whereby, the revision filed by Binder Kaur @ Gurdeep Kaur and Nasib Kaur @ Kuldeep Kaur against the order dated 23.1.2006 passed by Judicial Magistrate, Ist Class, Barnala summoning them under Section 319 Cr.P.C. as an additional accused was set aside and it was ordered that it will be open for the complainant to again file an application under Section 319 Cr.P.C. after cross-examination of the complainant.

The revisional Court has set aside the aforesaid order of the trial court after framing the opinion that the evidence came on record in examination-in-chief is not sufficient for summoning the additional accused and, therefore, the said order was set aside with a liberty that after the cross-examination of the said complainant and subsequently if some incriminating evidences come against the aforesaid two persons it will be open for the complainant to again file an application under Section 319 Cr.P.C. for summoning them as an additional accused. Though an additional accused can be summoned under Section 319 Cr.P.C. on the basis of examination-in-chief of a witness but in the facts and

circumstances of case when the revisional Court comes to the conclusion that the said evidence is not sufficient and an option was given to complainant to again move an application under Section 319 Cr.P.C. for summoning the additional accused after cross-examination of the other witness or some other evidence came on record, no prejudice is going to be caused, therefore, I do not find any ground to interfere in the impugned order.

Dismissed.

January 11, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**